

Exhibit B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FEDERAL TRADE COMMISSION;
STATE OF NEW YORK; STATE OF
CALIFORNIA; STATE OF ILLINOIS;
STATE OF NORTH CAROLINA; STATE
OF OHIO; COMMONWEALTH OF
PENNSYLVANIA; and
COMMONWEALTH OF VIRGINIA,

Plaintiffs,

vs.

VYERA PHARMACEUTICALS, LLC;
PHOENIXUS AG; MARTIN SHKRELI,
individually, as an owner and
former officer of Vyera
Pharmaceuticals, LLC and
Phoenixus AG (formerly known
as Turing Pharmaceuticals, LLC
and Turing Pharmaceuticals
AG); and KEVIN MULLEADY,
individually, as an owner and
director of Phoenixus AG and
a former executive of Vyera
Pharmaceuticals, LLC,

Defendants.

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Case No.
1:20-cv-00706-DLC

VIDEOTAPED DEPOSITION OF AKEEL MITHANI

Via Videoconference

Brooklyn, New York

Thursday, January 28, 2021

Reported by:
KRISTIN KOCH, RPR, RMR, CRR
JOB NO. 188171

<p style="text-align: right;">Page 2</p> <p>1</p> <p>2</p> <p>3</p> <p>4 January 28, 2021</p> <p>5 9:23 a.m.</p> <p>6</p> <p>7</p> <p>8 Videotaped Deposition of AKEEL</p> <p>9 MITHANI, Via Videoconference, before</p> <p>10 Kristin Koch, a Registered Professional</p> <p>11 Reporter, Registered Merit Reporter,</p> <p>12 Certified Realtime Reporter and Notary</p> <p>13 Public of the State of New York.</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 3</p> <p>1</p> <p>2 A P P E A R A N C E S: (Via videoconference)</p> <p>3</p> <p>4 FEDERAL TRADE COMMISSION</p> <p>5 Attorneys for Plaintiffs</p> <p>6 600 Pennsylvania Avenue, NW</p> <p>7 Washington, DC 20580</p> <p>8 BY: MAREN SCHMIDT, ESQ.</p> <p>9 DANIEL PATRICK HUYETT, ESQ.</p> <p>10 PHOEBE FLINT, Paralegal</p> <p>11</p> <p>12</p> <p>13 OFFICE OF THE NEW YORK ATTORNEY GENERAL</p> <p>14 Attorneys for State of New York</p> <p>15 28 Liberty Street</p> <p>16 New York, New York 10005</p> <p>17 BY: SAAMI ZAIN, ESQ.</p> <p>18 ELINOR HOFFMANN, ESQ.</p> <p>19</p> <p>20</p> <p>21 OFFICE OF THE ILLINOIS ATTORNEY GENERAL</p> <p>22 Attorneys for State of Illinois</p> <p>23 150 East Gay Street</p> <p>24 Columbus, Ohio 43215</p> <p>25 BY: RICHARD S. SCHULTZ, ESQ.</p>
<p style="text-align: right;">Page 4</p> <p>1</p> <p>2 A P P E A R A N C E S: (Continued)</p> <p>3</p> <p>4</p> <p>5 PENNSYLVANIA OFFICE OF ATTORNEY GENERAL</p> <p>6 Attorneys for Commonwealth of Pennsylvania</p> <p>7 Strawberry Square</p> <p>8 Harrisburg, Pennsylvania 17120</p> <p>9 BY: STEPHEN SCANNELL, ESQ.</p> <p>10</p> <p>11</p> <p>12 MORGAN, LEWIS & BOCKIUS LLP</p> <p>13 Attorneys for Vyera Pharmaceuticals and</p> <p>14 Phoenixus AG</p> <p>15 101 Park Avenue</p> <p>16 New York, New York 10178</p> <p>17 BY: STACEY ANNE MAHONEY, ESQ.</p> <p>18</p> <p>19</p> <p>20 DUANE MORRIS LLP</p> <p>21 Attorneys for Martin Shkreli</p> <p>22 30 South 17th Street</p> <p>23 Philadelphia, Pennsylvania 19103</p> <p>24 BY: JEFFREY S. POLLACK, ESQ.</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1</p> <p>2 A P P E A R A N C E S: (Continued)</p> <p>3</p> <p>4</p> <p>5 KASOWITZ BENSON TORRES LLP</p> <p>6 Attorneys for Kevin Mulleady</p> <p>7 1633 Broadway</p> <p>8 New York, New York 10019</p> <p>9 BY: KENNETH R. DAVID, ESQ.</p> <p>10 NICHOLAS A. RENDINO, ESQ.</p> <p>11</p> <p>12</p> <p>13</p> <p>14 ALSO PRESENT:</p> <p>15</p> <p>16 MARK VON LANKEN, Legal Video Specialist</p> <p>17 KEVIN MULLEADY</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

Page 98

1 A. Mithani
2 MS. MAHONEY: Objection.

23 A. Yes.
24 Q. Okay. And what agreements, if any,
25 did you ultimately negotiate with RL Fine?

Page 100

1 A. Mithani
2 in-person negotiations?
3 A. Yes.
4 Q. Okay. And were those held in India?
5 A. Yes.
6 Q. Did you go to India specifically to
7 negotiate these agreements with RL Fine?
8 A. No.
9 MS. MAHONEY: Objection.
10 Q. You did not. You were there for
11 other purposes?
12 A. Yes.
13 Q. Okay. How did you end up meeting
14 with RL Fine in person?
15 A. I reached out if they wanted to take
16 a meeting, they said they will, so I flew out
17 to another state.
18 Q. Okay. I'm sorry. What -- and if
19 it's a personal matter, you don't have to get
20 into it, but what originally took you to India?
21 A. Personal matter.
22 Q. Okay. So you were there on personal
23 business and you reached out to RL Fine while
24 there?
25 A. Yes.

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1 A. Mithani
2 MS. MAHONEY: Objection.
3 A. The agreement was negotiated by the
4 lawyers.
5 Q. Okay. So you didn't actually
6 negotiate the terms with RL Fine?
7 A. I helped. I was not the lead
8 contact.
9 Q. Did you participate in any
10 negotiations with RL Fine?
11 A. Yes.
12 Q. Okay. How many times did you -- did
13 you participate -- how were these negotiations
14 conducted? Let me -- let me just ask that up
15 front.
16 MS. MAHONEY: Objection.
17 MR. DAVID: Objection.
18 MR. POLLACK: Objection.
19 A. There was negotiations done in
20 person, there was negotiations done on phone,
21 there was negotiations done by e-mail.
22 Q. Okay. Did you have some
23 negotiations prior to meeting in person?
24 A. I do not recall.
25 Q. Okay. Did you participate in the

Page 101

1 A. Mithani
2 Q. Okay. But you flew within the
3 company to meet with them in person?
4 MS. MAHONEY: Objection.
5 A. Rephrase the question.
6 Q. Sure. You were already in India but
7 you were not located -- you were not located in
8 the same -- within the same place in India as
9 RL Fine?
10 A. Yes.
11 Q. So you traveled to meet in person
12 with RL Fine?
13 A. Yes.
14 Q. Okay. Who else from the company
15 went with you, if any?
16 A. Just me.
17 Q. So for this in-person meeting it was
18 just you?
19 A. Yes.
20 MS. MAHONEY: Objection.
21 Q. Okay. Did anybody join on the
22 phone?
23 A. No.
24 MS. MAHONEY: Objection.
25 Q. Okay. Who did you meet with at this

[illegible]

Page 116

1 A. Mithani

2 [REDACTED]

3 [REDACTED]

4 A. A friend attended.

5 Q. Okay. What's that friend's name?

6 A. I do not recall.

7 Q. You don't recall your friend's name?

8 A. I do not recall.

9 Q. Are you still friends with this

10 person?

11 A. I am not.

12 Q. Okay. Why did this then friend

13 attend the meeting?

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 THE COURT REPORTER: I'm sorry?

21 A. A friend is not the right word. An

22 individual that was introduced to help navigate

23 India pharmaceutical space.

24 Q. And you don't recall his first or

25 last name?

1 A. Mithani Page 115

A horizontal bar chart with 20 rows. Each row contains a solid black rectangular bar of varying length. The bars are distributed across the width of the chart area, with some being very long (nearly spanning the width) and others being very short (less than a quarter of the width). The bars are arranged in a descending order of length from top to bottom, though there is a slight increase in length between the 10th and 11th bars.

Row	Approximate Relative Length (0 to 100%)
1	95
2	85
3	20
4	75
5	30
6	90
7	65
8	68
9	88
10	40
11	90
12	82
13	78
14	95
15	25
16	75
17	85
18	92
19	88
20	70

[illegible]

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1 A. Mithani
2 MR. DAVID: Objection.
3 MS. MAHONEY: Objection.
4 MR. POLLACK: Objection.
5 A. I do not know.

[REDACTED]

Page 143

1 A. Mithani

[REDACTED]

Page 144

1 A. Mithani

[REDACTED]

13 MR. DAVID: Object to the form.
14 MR. POLLACK: Objection.
15 MS. MAHONEY: Objection.

[REDACTED]

Page 145

1 A. Mithani
2 MS. MAHONEY: Objection.
3 MR. POLLACK: Objection.
4 THE WITNESS: Sorry.
5 Q. Go ahead.
6 A. I do not recall that.

[REDACTED]

Page 182

1 A. Mithani
2 able to use RL Fine as a backup supplier?
3 MS. MAHONEY: Objection.
4 A. I don't think so.
5 Q. Staying with GX 1511-006, the first
6 full paragraph: [REDACTED]

[illegible]

Page 184

1 A. Mithani
2 MS. MAHONEY: I'm sorry, Maren. I
3 couldn't hear you.
4 MR. POLLACK: Objection.
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
14 MS. MAHONEY: Objection.
15 MR. POLLACK: Objection.
16 THE COURT REPORTER: I'm sorry. Can
17 I get the answer again.

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

Page 183

1 A. Mithani

Page 185

A. Mithani

[REDACTED]

Page 294

1 A. Mithani
2 THE VIDEOGRAPHER: We are on the
3 record. The time is 5:40.
4 BY MS. SCHMIDT:

12 MR. POLLACK: Objection.

13 MS. MAHONEY: Objection.

21 MS. MAHONEY: Objection.

22 MR. POLLACK: Objection.

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1 A. Mithani
2 a short series of questions here and then I
3 will propose we take a break and then I am
4 going to -- just to let everybody know what
5 is happening, because I know it's after
6 5:40. I am going to ask a few questions on
7 a different topic and hopefully that
8 shouldn't last more than five minutes and
9 then I am going to take a break with my
10 colleagues and just see what else needs to
11 be covered. It might be very short after
12 that, that's my hope, but I do need to
13 confer with my -- with my co-counsel and
14 then hopefully we can wrap this up after
15 that. Okay?

16 MS. MAHONEY: Thanks for the update.

17 MS. SCHMIDT: Okay.

18 Q. So Mr. Mithani, do you use text to
19 communicate regarding Vyera business?

20 A. Yes.

21 Q. Who do you text with regarding Vyera
22 business?

23 A. Anyone I need to.

24 THE COURT REPORTER: I'm sorry?

25 A. Anyone I need to get in contact

Page 295

1 A. Mithani

4 MR. POLLACK: Objection.

5 Q. Okay. And who is the chairman of
6 the board now?

7 A. Averill Powers.

23 MS. SCHMIDT: Okay. You can set
24 that aside.

25 Mr. Mithani, I am just going to ask

Page 297

1 A. Mithani

2 with.

3 Q. And who would that be?

4 A. Generally, department heads.

5 Q. Okay. Fellow board members ever?

6 A. Yes.

7 MR. POLLACK: Objection.

8 MS. MAHONEY: Objection.

9 Q. Mr. Shkreli?

10 MS. MAHONEY: Objection.

11 MR. POLLACK: Objection.

12 A. Yes.

13 Q. Okay. Did you -- what kind of
14 device did you use to text regarding company
15 business?

16 A. An iPhone.

17 Q. Okay. Did you just use iPhone's
18 messaging app or did you use other apps as
19 well?

20 A. WhatsApp and iPhone app.

21 Q. iPhone and WhatsApp, okay, is that
22 right?

23 A. Yes.

24 Q. Okay. And did you preserve all of
25 your texts regarding company business?

Page 298

1 A. Mithani

2 MS. MAHONEY: Objection.

3 A. Yes.

4 Q. How did you preserve all of your

5 texts regarding company business?

6 MS. MAHONEY: Objection.

7 A. It's all backed up in iCloud.

8 Q. And was that made available to the

9 company?

10 A. Yes.

11 Q. Okay. Did you ever delete any texts

12 regarding company business?

13 A. None that I know of.

14 Q. Okay. What about personal e-mail,

15 do you use personal e-mail to conduct company

16 business?

17 A. Yes.

18 Q. And did you preserve those personal

19 e-mails?

20 MS. MAHONEY: Objection.

21 A. Yes.

22 Q. You don't have to provide the

23 specific address of that, but what personal

24 e-mail platforms were you using for this?

25 A. My personal e-mail (inaudible)

Page 300

1 A. Mithani

2 A. None that I can think of.

3 Q. And did you preserve all of those

4 chats?

5 MS. MAHONEY: Objection.

6 A. Yes.

7 MS. SCHMIDT: Okay. Speaking of

8 chats, I have lost mine with my co-counsel,

9 so I am going to suggest we take a -- this

10 might be a little ambitious, but let's try

11 to come back at 5:55. I believe it's 5:47

12 now. 5:55, is that agreeable?

13 MS. MAHONEY: Yes.

14 MS. SCHMIDT: Okay. If we could

15 please go off the record and be sent to our

16 breakout rooms, please.

17 THE VIDEOGRAPHER: We are off the

18 record. The time is 5:47.

19 (Recess was taken from 5:47 to

20 5:59.)

21 THE VIDEOGRAPHER: We are on the

22 record. The time is 5:59.

23 BY MS. SCHMIDT:

24 Q. Mr. Mithani, I just wanted to follow

25 up, I believe before we broke you said that you

Page 299

1 A. Mithani

2 Gmail.

3 THE COURT REPORTER: I'm sorry?

4 A. Gmail.

5 Q. And did you provide all of those

6 e-mails to the company?

7 A. Yes.

8 Q. When did you first provide those

9 e-mails to the company?

10 A. I don't recall.

11 Q. Okay. Same with the text, when did

12 you first provide your preserved texts to the

13 company?

14 A. I don't recall.

15 Q. When did you last provide your

16 personal texts to the company?

17 A. Three months ago.

18 Q. Okay. And did you ever use any

19 messaging apps, non-text messaging apps, such

20 as GChat or any other chat system to

21 communicate regarding company business?

22 MS. MAHONEY: Objection.

23 A. We use Skype and Microsoft Teams.

24 Q. Skype. Okay. Skype and Microsoft

25 Teams. Any others?

Page 301

1 A. Mithani

2 texted regarding company business with fellow

3 board members and company division heads; is

4 that right?

5 A. Yes.

6 Q. Okay. For board members did you

7 text with Jordan Walker?

8 A. Yes.

9 Q. Ron Tilles?

10 A. I don't recall.

11 Q. Averill Powers?

12 A. Yes.

13 Q. Did you text with Nick Pelliccione?

14 A. Yes.

15 Q. Marco Polizzi?

16 A. Yes.

17 Q. Ruchin Patel?

18 A. Yes.

19 Q. Yaro Zherebukh?

20 A. Yes.

21 Q. Daniel Fennessy?

22 A. I don't recall.

23 Q. Maureen Lohry?

24 A. I don't recall.

25 Q. Chris Lau?